

R592. Insurance, Title and Escrow Commission.

R592-2. Title Insurance Administrative Hearings and Penalty Imposition.

R592-2-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2) (e), (g), ~~[and] (h)~~, and (6) to provide the process for conducting or delegating an administrative hearing in a title ~~[administrative hearing]~~ insurance matter and imposing a penalty for a violation of statute or rule.

R592-2-2. Purpose and Scope.

- (1) The purposes of this rule are:
 - (a) to establish procedures for the [e]Commission:
 - (i) to delegate to the commissioner's administrative law judge the conduct of an administrative hearing to resolve a title insurance matter; or
 - (ii) to conduct an administrative hearing to resolve a title insurance matter; and
 - (b) to establish procedures for the [e]Commission,
 - (i) to impose penalties; and
 - (ii) for the commissioner to concur with the penalties imposed.
- (2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business of title insurance, and continuing education providers submitting title continuing education programs for approval.

R592-2-3. Definitions.

For purposes of this rule, the [e]Commission adopts the definitions set forth in ~~[Utah Code Annotated (U.C.A.)]~~ Title 31A and the following:

- (1) "Commission" means the Title and Escrow Commission.
- (2) "Commissioner" means the Utah~~['s]~~ insurance commissioner.
- (3) "Title insurance matter" means a matter related to:
 - (a) title insurance; and
 - (b) an escrow conducted by an individual title insurance producer.

R592-2-4. Title Insurance Matters Referred for Enforcement.

- (1) A title insurance matter referred for enforcement will be resolved by:
 - ~~[(i)]~~ a an informal adjudicative ~~[action]~~ proceeding pursuant to R592-2-5; or
 - ~~[(ii)]~~ ~~a stipulation and order issued by the commissioner; or~~
 - ~~[(iii)]~~ b ~~[an administrative hearing]~~ a formal adjudicative proceeding conducted either by the [e]Commission or the commissioner's administrative law judge pursuant to R592-2-6.

R592-2-5. Imposition of a Penalty When an Informal Adjudicative Proceeding Is Used to Resolve a Title Insurance Matter.

- (1) If the commissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the commissioner shall use the penalties imposed by the [e]Commission in this Section.
- (2) The [e]Commission shall impose the following penalties on

title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

Violation	1st Proceeding	2nd Proceeding
[Failure to complete required continuing education hours.]	Individual: \$1,000; Agency: n/a	Individual: \$2,000; Agency: n/a
Failure to respond to an inquiry of the commissioner.	Individual: \$500; Agency: \$750	Individual: \$1,000; Agency: \$1,500
Failure to file a required rate, form, or report.	Individual: n/a Agency: \$1,000	Individual: n/a; Agency: \$2,000
Late filing of a required rate, form, or report.	Individual: n/a; Agency: \$750	Individual: n/a; Agency: \$1,500
[Failure to charge or	Individual: \$1,000;	Individual: \$2,000;
Failure to charge or	Individual: \$1,250;	Individual: \$2,500;
collect a correct	Agency: \$2,500	Agency: \$5,000
premium or a correct		
filed fee.		
<u>Failure to provide a current email.</u>	<u>Individual: \$100</u> <u>Agency: \$250</u>	
Charging or collecting a non-filed required fee.	Individual: \$1,000; Agency: \$2,500	Individual: \$2,000; Agency: \$5,000
[Failure to pay assessment when due.	Individual: \$500; Agency: \$750	Individual: \$1,000; Agency: \$1,500]
Failure to pay	Individual: \$1,000;	Individual: \$2,000;
Assessment when due.	Agency: \$1,500	Agency: \$3,000
<u>Conducting title insurance business on a license that has lapsed for 30 days or less.</u>	<u>Individual: \$250</u> <u>Agency: \$1,500</u>	

(3) If an informal adjudicative proceeding in a title insurance matter is proposed to be resolved through settlement and negotiation, prior to entering into a stipulation and order, the commissioner shall present to and discuss with the Commission a proposed resolution of the title insurance matter based on the following procedures:

(a) the commissioner shall provide the parties involved with a draft stipulation of facts, which may include aggravating and mitigating factors, and conclusions of law pertaining to the title insurance

matter with a recommended penalty;

(b) if the parties involved agree to the stipulation of facts and conclusions of law, the stipulation of facts and conclusions of law together with the commissioner's recommended penalty will be presented to the Commission for the imposition of the penalty, which penalty will be imposed if the Commission concurs with the recommended penalty;

(c) if the Commission does not concur with the commissioner's recommended penalty, the Commission will provide the commissioner a recommended penalty, which penalty will be imposed upon the concurrence of the commissioner;

(d) a party involved in an informal hearing may at any time request that the title insurance matter be resolved by a Formal Adjudicative Proceeding pursuant to R592-2-6.

R592-2-6. Use of ~~[an Administrative Hearing]~~a Formal Adjudicative Proceeding to Resolve a Title Insurance Matter.

(1) ~~[When the commissioner sets a date for an administrative hearing to resolve a title insurance matter,]~~Before the commissioner sets a date for a hearing, the commissioner shall inform the [e]Commission of the title insurance matter and the request for a hearing[-date].

(2) After being informed of ~~[a]the request for a hearing[-date],~~ the ~~[e]Commission shall,~~ in accordance with Section 31A-2-404(2)(e), either:

(a) delegate the conduct of the ~~[administrative]~~hearing to the commissioner's administrative law judge;[-or]

(b) conduct the ~~[administrative]~~hearing[-]; or

(c) unless requested by a party that the Commission conduct the hearing, any title insurance matter that has been presented to the Commission per R592-2-5(3) shall be delegated to the commissioner's administrative law judge.

(3) ~~[For an administrative]~~In hearing a formal adjudicative proceeding conducted by the ~~[e]Commission,~~ the ~~[e]Commission shall:~~

(a) ~~[accept]~~set the date, time and place ~~[set by the commissioner or set a different date, time, and place]~~for the ~~[administrative]~~hearing;

(b) cause notification to be sent to the respondent(s), the commissioner's administrative law judge, and the commissioner's enforcement attorney of the date, time, and place of the ~~[administrative]~~hearing;

(c) conduct the hearing pursuant to 63G-4-206 and R590-160;

(d) impose penalties in accordance with Sections 31A-2-308, 31A-2-404, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner; and

(e) issue an Order~~[-on Hearing]~~.

(4) The commissioner's administrative law judge shall assist the [e]Commission in its conduct of ~~[an administrative]~~a hearing.

R592-2-7. Imposition of Penalties.

The [e]Commission shall impose a penalty as follows:

(1) ~~[#]~~For an informal adjudicative proceeding pursuant to R592-2-5(1), a penalty shall be imposed in accordance with Table 1 in R592-2-5(2).[+]

(2) For a stipulation and order pursuant to R592-2-5(3), the

Commission shall impose a penalty subject to the concurrence of the commissioner.

(3) [~~f~~]For [~~an administrative~~]a hearing on a formal adjudicative proceeding conducted by the commissioner's administrative law judge[~~pursuant to R592-2-6 (2)(a)~~], the [e]Commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner; or

(4) [~~f~~]For [~~an administrative~~]a hearing on a formal adjudicative proceeding conducted by the [e]Commission, the [e]Commission shall impose a penalty, subject to the concurrence of the commissioner.

R592-2-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

R592-2-9. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: [~~May 1, 2013~~]2014

Notice of Continuation: September 15, 2010

Authorizing, and Implemented or Interpreted Law: 31A-2-402